

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.30 OF 2022

Shimpa Harpreet Singh Arora] ... Applicant

Vs.

Smt. Parminder Kaur Gurucharan]
Arora] ... Respondent

...

Mr. G.S. Hegde i/b Ms. Pinky M. Bhansali for the applicant.

Mr. Ketan Parekh for the respondent.

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 24TH JANUARY, 2022.

P.C. :-

1. This matter was heard extensively.
2. The learned counsel for the applicant relied upon a judgment dated 19/12/2009 delivered by the learned Single Bench of this court (as His Lordship then was) in **Smt. Meera R. Khanna v. Arun Kumar Ohri**¹. The learned counsel for the respondent relied

¹ In Notice No.1099 of 2009 in Execution Application No.228 of 2009 in Eviction Proceedings

upon the judgment delivered by another learned Single Bench of this court in the matter of **Laxman Bhaguji Kawade v. Dnyaneshwar Krishnaji Takalkar & Ors.**²

3. Upon considering the submissions of the parties and the judgments cited, it is obvious that the facts appearing in **Smt. Meera R. Khanna (supra)** are totally different and the law laid down is that Order XXI Rule 22 of the Code of Civil Procedure would apply to eviction of a licensee or upon a legal representative of the licensee once the judgment is delivered by the competent authority, under Section 24 of the Maharashtra Rent Control Act.

4. Per contra, the view taken by this court in **Laxman Kawade (supra)** indicates that Order XXI of the CPC would not apply to the eviction of a licensee, when the judgment is delivered by the competent authority under the Maharashtra Rent Control Act. Paragraph 27 reads as under:-

“27. A harmonious reading of the provisions contained in Chapters-V and VIII would make it clear that these provisions read together enact a scheme so as to enable all those persons who have been included in Chapter-VIII and particularly in Sections 42 and 43, to recover possession of the premises let out by them for service occupancy or while they were posted in armed forces. These are cases where persons in armed forces or Government

No.37 of 2004

2 2013(7) All M.R. 590

service let out their own private property and move or shift into official accommodations during the course of their postings and transfers in service. Such persons, who are rendering public services, have been given special status so that their applications for eviction and recovery of possession of their premises are dealt with summarily and expeditiously so as not to cause inconvenience to them. Equally, taking note of the large number of leave and licence agreements executed in relation to the flats and immovable properties in Maharashtra, that the Legislature stepped in and made provisions enabling the licensor/ landlord to recover possession. It would be complete mockery of these proceedings if Order XXI of the Code of Civil Procedure, 1908 or styled as execution or proceedings to recover possession in pursuance of a decree of possession passed by a ordinary civil court, is to be read into the above Chapters. If complete procedure and substantive powers under Order XXI of the Code of Civil Procedure, 1908 and prior thereto of a trial of the civil suits have been excluded so as to ensure speedy disposal of the above cases and applications, then, by indirect or oblique method the same cannot be read into Chapters-V and VIII of the MRC Act.”

5. The learned advocate for the applicant, in the alternative, relied upon paragraph No.33 of the order passed in **Laxman Kawade (supra)** and prayed that the applicant would withdraw this civil revision application and the applicant be granted one week's time to approach the civil court at Dindoshi with regard to the contention that the applicant is a co-owner of the property, which is subject matter of the leave and licence agreement dated 11/04/2016.

6. The learned advocate for the respondent has vehemently opposed the request, by contending that, on the one hand, the applicant has created a tricky picture of being at loggerheads with her husband and a complaint was registered on 16/12/2019, only after the competent authority had delivered its judgment of evicting the licensee on 27/11/2019. He further submits that the licensee was in arrears and the applicant is his widow. Since the arrears have mounted to Rs.56 lakhs, let the applicant deposit at least 60% of the amount.

7. The learned advocate for the applicant submits that the applicant-widow does not have the amount to deposit.

8. Considering the above, the civil revision application is disposed off as withdrawn. Pursuant to the request made by the applicant, time is granted till 05/02/2022 to enable the applicant to approach the civil court at Dindoshi.

9. It is made clear that the said civil court, while dealing with the proceedings likely to be initiated by the applicant, would not be prejudiced by the emergency in the matter in which she has approached the court. If she prays for any ad-interim protection, the civil court, Dindoshi, shall consider the same on its own merits and, strictly in accordance with law, without being influenced by the fact that this court has granted time to the

applicant till 05/02/2022. In short, the learned civil court would not pass an order on the ground of sympathy.

[RAVINDRA V. GHUGE, J.]